



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Bob Fitzgerald, Clerk
Mary Jane Coffey, Member
David Anderson, Member
Judith Conroy, Assoc. Member
Mark Major, Assoc. Member
Timothy Hoegler, Assoc. Member

DECISION
ZONING BOARD OF APPEALS CASE #21-21

APPLICANT:
Briana Pinheiro

SITE:
18 Ponderosa Lane, Walpole, MA

Assessor's Lot: No. 27-222
Zoning District Residential B

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The request for a VARIANCE under Section 6.B.1 Schedule of Dimensional Regulation, for relief to the minimum side yard setback within the Residential B Zoning District.

On January 5, 2022, a public hearing was opened, and at the applicant's request, continued to January 19, 2022 for the purpose of receiving information and voting upon a decision whether to grant the requested variance.

PRESENT & VOTING MEMBERS:

John Lee, Chairman
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Mary Jane Coffey, Member

BOARD'S VOTE:

A motion was made by Ms. Coffey and seconded by Mr. Delaney, that the Board deny the applicant a Variance without prejudice under Section 6.B.1 of the Schedule of Dimensional Regulations for relief to the minimum side yard setback within the Residential B Zoning District

Roll Call Vote: 5-0-0

Lee-aye; Delaney-aye; Fitzgerald-aye; Coffey-aye; Anderson-aye, therefore, the Variance request is hereby denied.

REASONS FOR DECISION

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The property is a 20,004 square foot parcel within the Residential B Zoning District. The applicant did not provide evidence to indicate that soil conditions, shape of the property, or topography impacted the relief sought. The property also currently meets the minimum side yard setbacks for property within the Residential B Zoning District. The Zoning Board of Appeals was not persuaded that a substantial hardship exists, primarily because the applicants' proposed addition would create a non-conformity with the side yard setback, where none existed before, and neither the soil conditions, shape, or topography of the property prevented the proposed addition from being designed to meet the applicable dimensional requirements.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The abutting property to the side of the proposed addition is owned by the Town of Walpole and part of the property containing the Old Post Elementary School. The Board was concerned with the proximity of the addition to the property line. The Board also evaluated the size and makeup of existing homes on Ponderosa Lane and surrounding neighborhood. The Board felt that the proposed addition would be on contrast with the size of the existing homes in the area. The deviation from the required setbacks, and the proposed size of the addition lead the Board to conclude that the granting of a Variance would create a detriment to the public good.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The intent of the Zoning Bylaw is to provide uniform regulation to establish reasonable expectations of Zoning Districts and the neighborhoods and development within these Zoning District. The applicant's proposed addition would be within the established minimum side yard setback and be in contrast to the intent of the Zoning District's dimensional regulations. Granting relief by a Variance would deviate from the intent and purpose of this bylaw. The application fails to meet the standards for granting of a Variance, as the proposal and property conditions due not meet the established criteria.

APPEALS FROM THIS DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLZONING BOARD OF APPEALS

Robert Fitzgerald
Robert Fitzgerald, Clerk

2-1-22

cc: Town Clerk
Building Inspector
Applicant

This decision was made on January 19, 2022 and filed with the Town Clerk on February, 1, 2022.